

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEPHEN CHRISTIE,

Petitioner,

Case No. 3:22-cv-00484-ART-CLB

V.

TIM GARRETT, *et al.*,

Respondents.

ORDER

On December 5, 2022, this Court entered an order directing Petitioner, Stephen Christie, to show cause why his petition should not be dismissed without prejudice as unexhausted and premature. ECF No. 5. The Court noted that Christie likely filed this action under the belief that he was in danger of failing to comply the time limitation imposed by 28 U.S.C. § 2244(d)(1)(A, when in fact he will have ample time to file a federal petition when his pending state court proceedings conclude. The Court also recognized, however, that Christie may have had legitimate timeliness concerns that had not been presented to the Court. Accordingly, he was given an opportunity to show that he had valid reasons to be concerned about being able to file a timely federal petition if this case were to be dismissed.

23 The order advised Christie that failure to respond within 30 days would
24 result in this case being dismissed without further notice. The time allotted for
25 Christie to respond has long passed. He has not filed a response or requested
26 additional time within which to do so, which suggests to the court that he has
27 decided to file a new federal petition when state court proceedings conclude
28 rather than seek stay and abeyance in this proceeding.

1 It is therefore ordered that this case is dismissed without prejudice as
2 unexhausted and premature. The Clerk is directed to enter judgment
3 accordingly and close this case.

4 It is further ordered that a certificate of appealability is denied as jurists
5 of reason would not find the court's dismissal of this action without prejudice to
6 be debatable or incorrect.

7 DATED THIS 27th day of March, 2023.

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11 ANNE R. TRAUM
12 UNITED STATES DISTRICT JUDGE
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